

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GPNE CORP.,)	Case No.: 12-CV-02885-LHK
)	
Plaintiff,)	FINAL PRETRIAL CONFERENCE
v.)	ORDER
)	
APPLE, INC.,)	
)	
Defendant.)	

Plaintiff's Counsel: Max Tribble; Kalpana Srinivasan; Frances Lewis; Barry Bumgardner; Howard Susser
Defendant's Counsel: Ruffin Cordell; Christopher Green; Joseph Mueller; Mark Selwyn

The Court held a Pretrial Conference in this case on September 24, 2014. The Court made the following rulings on the record. **Requirements that were modified or added after yesterday's pretrial conference are highlighted in bold.**

- Closing slides: The parties agreed to file any objections to closing slides by noon the day before closing arguments.
- High Priority Objections: The parties agreed to file objections to witnesses, exhibits, and demonstratives with the Court by no later than 8 a.m. two days before the witness is to testify or the exhibit or demonstrative is to be used. Responses shall be filed at the same time. During the business week the parties shall deliver a hard copy of the exhibits at issue in their high priority objections to Judge Koh's chambers by **8:30 a.m.** two days before the witness is to testify or the exhibit or demonstrative is to be used. **Because the building is not open to the public on weekends, the Court requests that the parties submit the exhibit excerpts electronically either via email or via FTP site to lhkcrd@cand.uscourts.gov.**
- Exhibits Boxes/Binders: **Upon further reflection, the Court requests that the parties file their exhibits electronically. The Court appreciates the parties' further attempts to narrow the volume of exhibits. Once that narrowing is complete, the parties shall lodge 3 flash drives with one set of all exhibits on each drive no later than October 1,**

2014. The parties shall deliver 2 witness binders to Judge Koh's chambers by **8:30 a.m.** two days before that witness is to testify. **Because the building is not open to the public on weekends, for witnesses who will testify on a Monday or Tuesday, the parties shall provide those binders to the Court by 8:30 a.m. on Monday morning.**

- Exhibit List: GPNE shall file its revised exhibit list including its impeachment and rebuttal exhibits by September 29, 2014. For the 8 exhibits outside the scope of GPNE's original list of 521 exhibits, GPNE shall file a brief justifying admission of each exhibit for good cause. Apple shall file any opposition by October 1, 2014. These briefs shall not exceed five pages each.
- Expert Reports: The parties agreed to lodge the expert reports of the six testifying experts with the Court by October 1, 2014.
- JMOLs: The parties indicated their intent to file three rounds of motions for judgment as a matter of law. The parties are limited to briefs of no longer than five pages each.
- Voir dire: The Court explained its voir dire process to the parties. The parties shall have three peremptory strikes per side.
- Examination of Apple Witnesses Adversely Called by GPNE: The Court denied Apple's request to examine Apple witnesses called during GPNE's case in chief beyond the scope of GPNE's direct.
- Apple's Corporate Representative: The parties raised a new dispute regarding GPNE's intent to call Apple's corporate representative as a witness. GPNE shall call Mr. Casanova in lieu of Apple's corporate representative.
- Apple's Sensitive Information: The Court denied without prejudice Apple's request to seal the courtroom when sealed exhibits or testimony regarding sealed exhibits is to be presented. Apple agreed to identify any requests to seal the courtroom in its high priority objections or in objections at trial.
- Dr. Harry Tan: The Court denied without prejudice Apple's request to exclude Dr. Tan's deposition testimony. Apple shall identify any specific objections in its high priority objections or in objections at trial.
- Po Sing Tsui and William Manning: The parties withdrew their deposition designations for Mr. Tsui and Mr. Manning. GPNE's request is denied as moot.
- Apple's Expanded Exhibit List: The Court granted in part and denied in part GPNE's motion to exclude certain newly added defense exhibits. Specifically, the Court found the following Apple exhibits were not precluded for late disclosure on Apple's exhibit list:
 - Exhibits 331–50.
 - Exhibit 379.
 - Exhibits 380, 382
 - Exhibits 384–88.
 - Exhibit 383.
 - Exhibits 410–13.

- Exhibit 404.
- Exhibit 409.
- Exhibits 389–96.
- Exhibits 364–368, 414.
- Exhibits 351–61.
- Exhibits 185, 369.
- Exhibit 406 and JTX 40.
- Exhibits 370–77 and JTX 22.
- Exhibits 399–403, 405.

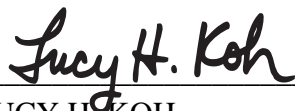
The Court precluded the following exhibits from being added to Apple's exhibit list because of untimely disclosure:

- Exhibits 407–08, 362–63, 397–98.
- GPNE's Motion in Limine # 5: The parties agreed to meet and confer regarding GPNE's concerns about Apple's opening statement.
- VirnetX: The parties agreed to the following briefing schedule: Apple shall file a brief regarding the effect of *VirnetX* on this case by September 29, 2014. GPNE shall file its response by October 2, 2014. Each side's brief shall not exceed three pages in length.
- Final Jury Instructions and Verdict Form: The parties shall file joint final jury instructions and a joint verdict form by 3 p.m. on October 15, 2014. For any disputed instructions or verdict form language, the parties shall include a brief paragraph supporting their proposed instruction or language. The parties shall also submit a soft copy via email to lhkcrd@cand.uscourts.gov.
- Rolling Witness Lists: **At 7 p.m. the day before witnesses are to be called, the party who is presenting testimony shall file a list of their witnesses who will testify the next day.**

The parties also filed their joint proposal regarding the maximum number of slides for opening and closing argument. ECF No. 376. The parties shall have a maximum of 60 opening and 100 closing slides.

IT IS SO ORDERED.

Dated: September 25, 2014


 LUCY H. KOH
 United States District Judge